

**SUBCHAPTER 1
HOLIDAY AND OVERTIME POLICIES**

350-2. Definitions for Overtime, Holidays, etc.

1. **TIME WORKED.** Time worked means time worked during regularly scheduled work periods, time taken off on authorized sick leave, vacation, or any other period for which the employee was compensated, including officially excused time lost such as that due to inclement weather and time lost due to civil emergencies by employees who were ready, willing and able to report to work. Such officially excused time lost shall constitute time owed to the city, and shall be deducted from each employee's pay to the extent that he does not work assigned emergency or other overtime work periods except when excused from such assignments for legitimate reasons. Such owed time shall be made up to the city by working hours in excess of the regularly scheduled working hours. Such owed time shall be limited to a maximum accumulation of 40 hours for city laborer, seasonal, and for all employees represented by Public Employees Union Local 61, LIUNA, AFL-CIO, CLC, after which pay deductions shall be made.

2. **OVERTIME.** Overtime means extra time worked which, within established limits, is compensated for in extra time off or in extra pay.

3. **HOLIDAY.** a. **Schedule.** Holiday, except as specifically covered by other provisions of the code such as those pertaining to or for employees represented by a collective bargaining unit, means:

- a-1. New Year's Day - January 1.
- a-2. Good Friday.
- a-3. Memorial Day - Last Monday in May.
- a-4. Independence Day - July 4.
- a-5. Labor Day - The 1st Monday in September.
- a-6. Thanksgiving Day - The 4th Thursday in November or the day appointed by the governor of Wisconsin as a day of public thanksgiving in each year.
- a-7. The day after Thanksgiving Day.
- a-8. Christmas Day - December 25.
- a-9. The last normal work day before Christmas Day.
- a-10. The last normal work day before New Year's Day.

a-11. Dr. Martin Luther King Jr.'s birthday - the 3rd Monday in January.

b. **Weekend Holiday.** Whenever Independence Day (July 4) falls on a Saturday, the preceding Friday shall be observed as a holiday as herein defined. Whenever New Year's Day (January 1) and Christmas Day (December 25) shall fall on a Saturday, the following Monday shall be observed as a holiday as herein defined. When New Year's Day, Independence Day or Christmas Day shall fall on a Sunday, the following Monday shall be observed as a holiday as herein defined.

c. **Employees Represented By a Collective Bargaining Unit.** For employees represented by a collective bargaining unit, the holiday schedule shall be as stated in their effective collective bargaining agreement, including any pertinent agreed upon memoranda.

e. **Off-days Limit After Jan. 1963.** Employees on the payroll, or those on leave of absence, or those on lay-off who are working toward year-round employment, as of January 1, 1963, except prevailing wage employees, fire and police department personnel and bridge operators, which are specifically covered in other provisions of the code, or employees in instances where extra pay was allowed in lieu of holidays, with the exception of prevailing wage employees holding positions represented by the certified joint bargaining unit of Local 139, IUOE, AFL-CIO, and Milwaukee District Council 48, AFSCME, AFL-CIO, and those employees represented by Local #33, Asphalt Ironers and Rakers of District Council 48, AFSCME, AFL-CIO, shall be entitled to 2 additional workdays off annually, which shall be earned at the rate of 2/10 days for each month worked but not to exceed 2 days. Such days off may be scheduled and used in the same manner as vacation days with the approval of the department head. The provisions of s. 350-40, where not in consistent with this paragraph, shall apply to the use of such off-days. Effective January 1, 1996, management and nonmanagement, nonrepresented employees and employees represented by Public Employees' Union #61, LIUNA, AFL-CIO, CLC, shall not be entitled to said off-days.

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f. Off-days Limited After Jan. 1964. Employees on the payroll or those on leave of absence, or those on lay-off who are working toward year-round employment, as of January 1, 1964, except prevailing wage employees, fire and police department personnel and police department personnel and bridge operators, which are specifically covered in other provisions of the code or employees in instances where extra pay was allowed in lieu of holidays, with the exception of prevailing wage employees holding positions represented by the certified joint bargaining unit of Local 139, IUOE, AFL-CIO, and the Milwaukee District Council 48, AFSCME, AFL-CIO, and those employees represented by Local #33 Asphalt Ironers and Rakers of District Council 48, AFSCME, AFL-CIO, shall be entitled to 2 additional workdays off annually, which shall be earned at the rate of 2/10 days for each month worked but not to exceed 2 days. Such days off may be scheduled and used in the same manner as vacation days with the approval of the department head. The provisions of s. 350-40, where not inconsistent with this paragraph shall apply to the use of said off-days. Effective January 1, 1996, management and nonmanagement, nonrepresented employees and employees represented by Public Employees' Union #61, LIUNA, AFL-CIO, CLC, shall not be entitled to said off-days.

g. Statutory Compliance. Any statutory provisions establishing legal holidays on days other than those set forth under the definition of the term "holiday" in this section shall not be observed in a manner resulting in a shorter workweek for the general city employee. If the state of Wisconsin adopts a statute under which some or all of the above enumerated in par. a are established or observed as so-called Monday holidays, the city will move to observation of such law, but the operation of said law shall not operate to increase or diminish the number of holidays with pay granted annually.

h. First Additional Off-day. Officers and employees of the city of Milwaukee, including civilian employees of the police department including police service specialists (except police aides), and civilian employees of the fire department (including fire equipment mechanics I and fire equipment repairman I and II, but not including fire alarm dispatchers), excluding other fire and police department personnel, bridge operators, and also excluding employees compensated on the basis of hourly

construction rates with the exception of hourly construction rate employees holding positions represented by the certified joint bargaining unit of Local #139, IUOE, AFL-CIO, and Milwaukee District Council #48, AFSCME, AFL-CIO, and those employees represented by Local #33 (Asphalt Ironers and Rakers) of District Council #48, AFSCME, AFL-CIO, shall be entitled to one additional workday off annually, which shall be earned at the rate of 1/10 day for each month worked but not to exceed one day. Such off-day may be scheduled as designated by the department head. No new employee shall be eligible for a fractional part of said off-day during his or her first calendar year. A new employee must complete 10 months of actual service during his or her first calendar year; however, the 10 months of actual service required for first-year eligibility by a new employee may include up to, but not more than, 10 days of reported unpaid time in the aggregate. Any new employee who has become eligible for said off-day who leaves the service of the city due to resignation, retirement, layoff, or death or who take military leave, shall be paid for accumulated time toward said off-day to the nearest 1/10 of a day computed from January 1 of the year of severance. Discharged employees are not entitled to pay for any accumulated time toward said off-day. The office of the director of employee relations shall administer this provision. The provisions of s. 350-40, where not inconsistent with the provisions of this paragraph, shall apply to the use of said off-day. Effective January 1, 1996, management and nonmanagement, nonrepresented employees and employees represented by Public Employees' Union #61, LIUNA, AFL-CIO, CLC, or the Association of Municipal Attorneys, or Local 75, Journeymen Plumbers' and Gasfitters' Union, AFL-CIO, or the Association of Scientific Personnel or Local 494, IBEW, AFL-CIO (Machine Group), shall not be entitled to said off-days.

i. Second Additional Off-day. Officers and employees of the city of Milwaukee as restricted in par. h, hired or appointed after January 1, 1963, but excluding police service specialists in the police department, shall be eligible for one additional workday off annually which shall be earned at the rate of 1/10 day for each month worked but not to exceed one day. Such off-day may be scheduled as designated by the department head. No new employee or officer shall be eligible for a fractional part of said off-day during his or her

first calendar year. The new employee or officer must complete 10 months of actual service during his or her first calendar year; however, the 10 months of actual service required for first-year eligibility by a new employee or officer may include up to, but not more than, 10 days of reported unpaid time in the aggregate. Any new employee or officer who has become eligible for said off-day who leaves the service of the city due to resignation, retirement, layoff, or death, or who takes military leave, shall be paid for accumulated time toward said off-day to the nearest 1/10 of a day computed from January 1 of the year of severance. Discharged employees or officers are not entitled to pay for any accumulated time toward said off-day. The office of the director of employee relations shall administer this provision. The provisions of s. 350-40, where not inconsistent with the provisions of this paragraph, shall apply to the use of said off-day. Effective January 1, 1996, management and non-management, nonrepresented employees and employees represented by Public Employees' Union #61, LIUNA, AFL-CIO, CLC, or the Association of Municipal Attorneys, or Local 75, Journeymen Plumbers' and Gasfitters' Union, AFL-CIO, or the Association of Scientific Personnel or Local 494, IBEW, AFL-CIO (Machine Group), shall not be entitled to said off-days.

j-1. Employees Working 20 Hours a Week. Effective January 1, 1979, employees holding positions represented by District Council No. 48, or who are identified in the city's visual organizational inventory as nonmanagement/nonrepresented, who work an average of 20 hours per week on a year-round basis in positions which are budgeted at half-time or more, shall be eligible to earn one workday off annually. This day shall be earned at the rate of 1/10 day for each month worked but not to exceed one day. Such off-day may be scheduled as designated by the department head. No new employee or officer shall be eligible for a fractional part of said off-day during his or her first calendar year. The new employee or officer must complete 10 months of actual service during his or her first calendar year; however, the 10 months of actual service required for first-year eligibility by a new employee or officer may include up to, but not more than, 10 days of reported unpaid time in the aggregate. Any new employee or officer who has become eligible for said off-day who leaves the service of the city due to

resignation, retirement, layoff, or death or who takes military leave, shall be paid for accumulated time toward said off-day to the nearest 1/10 of a day computed from January 1 of the year of severance. Discharged employees or officers are not entitled to pay for any accumulated time toward said off-day. The office of the director of employee relations shall administer this provision. The provisions of s. 350-40, where not inconsistent with the provisions of this paragraph, shall apply to the use of said off-day. The changes in subd. 1 shall apply only to eligible employees holding positions represented by certified bargaining units which have reached agreement with the city on a labor contract containing the changes described herein at the time this ordinance change is approved, and to eligible employees not represented by a certified bargaining unit. Effective January 1, 1996, management and nonmanagement, nonrepresented employees and employees represented by Public Employees' Union #61, LIUNA, AFL-CIO, CLC, or the Association of Municipal Attorneys, or Local 75, Journeymen Plumbers' and Gasfitters' Union, AFL-CIO, or the Association of Scientific Personnel or Local 494, IBEW, AFL-CIO (Machine Group), shall not be entitled to said off-days.

j-2. Effective January 1, 1994, police services specialists represented by the Association of Law Enforcement Allied Services Personnel, Local #218, IUPA, AFL-CIO (Clerical Unit), who work an average of 20 hours per week on a year-round basis in positions which are budgeted at half-time or more, shall be eligible to earn one-half workday off annually. Such half-day off may be scheduled as designated by the department head. As a condition of eligibility for such half-day off, a police services specialist newly appointed to the police department must complete 10 months of actual service during his or her first calendar year. Any police services specialist who has become eligible for said half-day off who leaves the service of the city due to resignation, retirement, layoff, or death or who takes military leave shall be paid for accumulated time toward said half-day off to the nearest 1/20 of a day computed from January 1 of the year of severance. Discharged police services specialists are not entitled to pay for any accumulated time toward said half-day off. The office of the director of employee relations shall administer this provision.

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4. TIME AND ONE-HALF. Time and one-half means compensation per hour worked, determined by dividing the biweekly rate by 80 and multiplying by 1.5, unless otherwise provided.

5. STRAIGHT TIME. Straight time means compensation per hour worked, determined by dividing the biweekly rate by 80, unless otherwise provided.

350-3. Uniform Overtime Policies. Except as provided in s. 350-6, the following overtime policies shall be applied uniformly to positions in the city service.

1. TIME AND ONE-HALF. All officers and employees of the city, except members of the police department's buildings and grounds division within the certified collective bargaining unit represented by District Council 48, AFSCME, AFL-CIO, shall normally be granted 1-1/2 hours off for each hour of necessary overtime employment, not compensated in cash, that is worked before or after the normal hours scheduled to be worked in each day, or for hours in excess of the regularly scheduled 40 hours in a week, and for work performed on holidays, as defined in s. 350-2, or Saturdays or Sundays when such Saturdays or Sundays are not a part of the scheduled workweek. The accumulated credit for each employee at no time shall exceed 120 hours worked which is equivalent on a time and one-half basis to 180 hours to be taken off. When computing overtime for regular day-shift employees who work on snow and ice control operations, 7:30 a.m. will be considered the starting time after which straight time will be paid. When computing overtime for truck drivers who receive emergency appointments during snow and ice control operations and who are not regularly scheduled second or third shift employees, all hours worked before 7:30 a.m. and after 4:00 p.m. will be considered overtime.

2. HOLIDAY TIME. a. Regularly Scheduled Overtime. It is the intent of this section that where holidays occur as defined in s. 350-2 in cases such as those where general city employees work 32 hours in a week due to a holiday, those assigned hours in excess of 32 hours on a regularly scheduled basis shall be considered overtime work, to be compensated in time off at the rate of time and one-half off unless otherwise provided. A differential of

\$0.30 per hour shall be added to the base rate for regularly scheduled overtime work on a holiday as defined in s. 350-2 performed by general employees eligible for cash overtime compensation including part-time nursing personnel and excluding bridge operators and employees holding positions in the city service compensated on the basis of hourly construction rates whose positions are not represented by the certified bargaining unit of Local 494, IBEW, AFL-CIO, Electrical Group, nor by the certified joint bargaining unit of Local 139, IUOE, AFL-CIO, and Milwaukee District Council 48, AFSCME, AFL-CIO.

b. Nonscheduled Overtime. It is the intent of this section that a general city employee who performs nonscheduled overtime work which falls within the calendar day of a holiday as defined in s. 350-2 shall be compensated for such holiday overtime work at the rate of 1.75 times his regular rate in compensatory time off or in cash.

c. Bargaining Units Not in Agreement. Notwithstanding the provisions of par. b, employees in bargaining units which have not reached agreement with the city to provide the rate of 1.75 times the regular rate for nonscheduled holiday overtime shall be compensated for such nonscheduled holiday overtime work in accordance with the provisions of par. a relating to regularly scheduled holiday overtime. In addition, bridge operators and employees holding positions in the city service compensated on the basis of hourly construction rates whose positions are not represented by a certified or officially recognized bargaining unit shall be excluded from the 1.75 times holiday overtime rate provisions.

d. Excluded. Nothing contained in pars. a and b is intended to authorize or require overtime compensation for employees who are excluded from such compensation by other provisions of the code.

e. Nonscheduled Overtime by Electrical Group Local Bargaining Unit. Notwithstanding the provisions of pars. a to d, it is the intent of this section that an employee of the department of public works holding a position represented by the certified bargaining units of Local 494, IBEW, AFL-CIO, Electrical Group, who performs nonscheduled overtime work which falls within the calendar day of a holiday as defined in s. 350-2 for employees in

this bargaining unit shall be compensated for such holiday overtime work at the rate of 1.75 times his regular rate in compensatory time off or in cash.

3. OVER 40 HOURS AND OVER 12 CONSECUTIVE HOURS. a. When compensation for overtime by cash payment is authorized, it shall be at the rate of time and one-half, unless a different rate is specifically prescribed for all hours worked before or after the normal hours scheduled to be worked in each day, or for hours in excess of the regularly scheduled 40 hours in a week, and for work performed on holidays as defined in s. 350-2, or Saturdays or Sundays when such Saturdays or Sundays are not a part of the normal workweek. When computing overtime for regular day shift, employees who work on snow and ice control operations, 7:30 a.m. will be considered the starting time after which straight time will be paid. When computing overtime for truck drivers who receive emergency appointments during snow and ice control operations, all hours worked before 7:30 a.m. and after 4:00 p.m. will be considered overtime.

b. For all work in excess of 12 consecutive hours, a \$0.25 per hour premium shall be added to the base rate before overtime is calculated.

c. Notwithstanding the provisions of pars. a and b, an employee holding a position represented by the certified bargaining unit of Local 494, IBEW, AFL-CIO, Electrical Group, shall be paid in accordance with the provisions of the labor agreement in effect between the city and Local 494, IBEW, AFL-CIO.

4. AS OVERTIME ONLY. Unless otherwise provided, in computing overtime of either type, time compensated for any reason on overtime basis shall not be counted in computing further overtime.

5. TIME OFF OR CASH. When compensation for overtime work by cash payment is authorized and when work conditions permit, the department may allow overtime to be taken off as compensatory time off at the rate at which it was earned. Employees in the certified bargaining unit of the Milwaukee Building and Construction Trades Council shall be paid in cash only for the overtime worked.

6. SUNDAY SCHEDULING. It is the intent of this section that employees can be compensated at the regular rate on Saturdays and Sundays where such work is part of the regular workweek schedule and is not an overtime assignment. The regular workweek schedule can be changed provided it is arranged in advance. Arranging in advance involves notice to an employee of a change in regular working schedule. Such notice is to be given the employee not less than 48 hours before the start of the changed shift and not later than quitting time of the last regular shift preceding the scheduled change. Notwithstanding the provisions of this subsection, employees holding positions represented by bargaining units which have not reached agreement with the city for 1975 and 1976 shall be covered by the provision in effect in 1974, pending agreement with the city on the exact provisions herein.

7. NONSCHEDULED SUNDAY OVERTIME. a. It is the intent of this section that a general city employee who performs nonscheduled overtime work which falls within a Sunday calendar day shall be compensated for such nonscheduled Sunday overtime work at the rate of 1.75 times his regular rate in compensatory time off or in cash.

b. Notwithstanding the provisions of par. a, bargaining units which have not reached agreement with the city to provide the rate of 1.75 times the regular rate for nonscheduled Sunday overtime shall be excluded from the 1.75 nonscheduled Sunday overtime work provision. In addition, employees holding positions in the city service compensated on the basis of hourly construction rates whose positions are not represented by a certified or officially recognized bargaining unit shall be excluded from the 1.75 times Sunday overtime rate provision.

c. Notwithstanding the provisions of pars. a and b, an employee holding a position represented by the certified bargaining unit of Local 494, IBEW, AFL-CIO, Electrical Group, shall be paid in accordance with the provisions of the labor agreement in effect between the city and Local 494, IBEW, AFL-CIO.

8. WHEN SICK LEAVE INCLUDED. It is the intent of this section, that no overtime payment, whether compensated by time off or in cash, will be considered or allowed for any time not actually worked, such as sick leave.

9. AUTHORIZATION. Under the limitations of this section, department or bureau heads are authorized to order overtime work, and no overtime shall be worked unless so ordered.

350-4. Overtime Procedures and Regulations (General).

1. AUTHORIZATION REQUIRED; RESTRICTIONS. No city official shall employ or cause to be employed workmen for city overtime work compensated in cash unless such work be first recommended by the commissioner of public works or the city engineer, or by the superintendent of water works, or the commissioner of health, or by the municipal port director or by properly designated supervisors.

2. BILLING AND ORDERS. All bills rendered to the city for overtime work performed must be accompanied by an order with someone of the specifically designated officials, specified in sub. 1, giving the reasons why such work was necessary.

3. EARNED OVERTIME AND EARNED VACATION TIME, TO BE PAID IN CASE OF DEATH. City officers and employes shall be allowed time with pay, notwithstanding death of such employe, for earned vacation time which has accrued. City officers and employes shall be allowed time with pay, notwithstanding death of such employe for recorded and certified overtime which has accrued, not exceeding 120 hours worked or 180 hours for which time off may be taken, to which such employe was entitled at the time of death. The proper city officers shall include such overtime and vacation time on the regular or supplementary payroll to accomplish the purpose of this section.

4. REPORTING OVERTIME REQUIRED. a. To Employee Relations. A report of all overtime employment, whether compensated for in cash or by time off, and in compensatory time off allowed by each department shall be submitted to the director of employee relations with the payroll for the period in which authorized for the information

of policy making, civil service, budget, accounting and disbursing officers, and for a check upon the necessity of such overtime employment. Any such overtime employment not so reported shall not be officially recognized and shall not be compensated, either in cash or in time off. The director of employee relations shall prescribe the form of the report of overtime worked or compensatory time taken off, and the number and disposition of copies thereof. In case of departmental error or omission in reporting overtime worked or time taken off, supplementary reports shall be submitted by the departments in order that payroll checks shall reflect correct amounts and overtime records shall indicate the exact number of hours of overtime worked or time taken off.

b. To Common Council. From the departmental reports of overtime worked or compensatory time taken off, the director of employee relations shall cause to be prepared consolidated reports of such overtime worked or time taken off, and shall submit such consolidated reports together with other appropriate information to the common council at such regular intervals as the board may require.

c. Accumulated Overtime. When and before an employe accumulates a total of 180 hours of compensatory time off, or 120 hours of overtime worked for which time off may be taken, the director of employee relations shall initiate a schedule to eliminate the overtime backlog, and shall investigate the cause and justification of such overtime work, and when possible, shall institute such recommended procedures as may be necessary to eliminate the need for overtime work. In each such case, the director of employee relations shall render to the common council a report of such overtime, and the recommendations made or action taken to reduce or eliminate the overtime work.

d. Overtime Studies. On the basis of such regular and special reports, the common council shall regularly review the overtime worked by each department, and shall require the presence of department heads or supervisors empowered to authorize overtime work for the purpose of supporting or explaining its need, and shall install such rules as may be deemed necessary to control overtime work.

5. OVERTIME NOT TO BE USED FOR RETIREMENT CREDIT. No overtime period of service, nor the compensation received therefor, shall be counted as accruing toward credit or deduction on any annuity or pension rights.

350-5. Exclusion from Overtime. 1. POSITIONS EXCLUDED. All employees in pay ranges 560 to 565, 644 to 648 and salary grades 4 to 20 of the salary ordinance, except as provided in s. 350-20-2.5, and all employees compensated at flat rates under the salary ordinance are excluded from benefits and provisions of the overtime ordinance, unless otherwise provided.

2. MANAGEMENT EMPLOYEES. Such employees are specifically excluded from those provisions relating to payment in cash or compensatory time off for overtime worked. Positions are compensated in pay ranges 560 to 565, 644 to 648 and salary grades 4 to 20 of the salary ordinance, and at flat rates under the salary ordinance because of their significant management responsibilities. Persons employed in such positions are so compensated not primarily on the basis of their specific hours of labor, but on the basis of total duties and responsibilities assigned. Such employees are required to satisfactorily discharge the full duties and responsibilities of their positions whether overtime work in the usual sense is required or not. When any such positions, because of special or unique circumstances, regularly or frequently require work in excess of 40 hours per week, such circumstances and hours of work characteristics are considered as factors in establishing the classification and compensation of such positions. It is the policy of the city, however, to provide sufficient staffing to permit a normal 40 hour week for such positions insofar as may be practical and consistent with efficient operations.

3. FLEXIBLE SCHEDULE. Employees of all such positions shall work a minimum average of 40 hours per week, normally consisting of 5 workdays of 8 hours each. Such employees shall be considered, however, to work on a flexible schedule, within the limits of the minimum 40-hour week, existing workload demands, and approval of the department head. Under this flexible schedule provision, the daily work schedule of such employees may be adjusted from time to time as

necessary and appropriate in order to fulfill their assigned duties and responsibilities. Such adjustments may include starting and quitting times that are earlier or later than established in the normal work schedule of the department, and may include hours of work that are more or less than 8 hours in any particular day and more or less than 40 hours in any particular week, within the limits described above. This flexible schedule provision shall not be construed as allowing compensatory time off at the rate of time and one-half; allowing time off for extended personal illness without charge to sick leave, nor allowing time off for extended vacation.

4. ADMINISTRATION. Department heads shall enforce the provisions of the section as it applies to personnel within their own department. The director of employee relations shall interpret the provisions of this section and shall report to the finance and personnel committee of the common council any apparent problems or abuses concerning the interpretation or administration of this section.

5. TO BE USED WITHIN 2 YEARS. All employees entering positions excluded from payment in cash or compensatory time off for overtime worked by these or any other provisions of the code shall take off any overtime balance previously earned within a 2-year period from the time of entering such position. Employees in such positions who do not take off such overtime within the 2-year period shall lose such overtime balance and shall not have any claim to time off or payment for such overtime balance after such 2-year period has expired.

350-6. Fair Labor Standards Act Compliance. In accordance with the provisions of the federal fair labor standards act:

1. The director of employee relations shall determine which positions and classes are covered by the act and transmit appropriate guidelines and instructions for carrying out the applicable provisions of the act to city departments and bureaus.

2. The comptroller shall develop and establish payroll recordkeeping, payment inclusions, and payroll practices to assure good faith compliance with the act.

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3. The director of employe relations shall issue a policy statement prohibiting departments and bureaus from docking employes exempt from the act for partial day absences and institute a policy for those employes to make up the time, consistent with departmental operations.

4. The labor negotiator shall meet with appropriate bargaining unit representatives to discuss and clarify city compliance policies.